

BEHAVIORAL EMERGENCY SERVICES AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill enacts requirements and provisions relating to behavioral emergency services technicians.

Highlighted Provisions:

This bill:

- defines terms;
- creates a new license for behavioral emergency services technicians and advanced behavioral emergency services technicians;
- requires the Utah Department of Health to administer the license, including setting initial and ongoing licensure and training requirements;
- enacts provisions relating to the new license for behavioral emergency services technicians, including certain testimonial exceptions; and
- makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2019, Chapter 265

26-8a-103, as last amended by Laws of Utah 2017, Chapters 326 and 336

26-8a-206, as enacted by Laws of Utah 1999, Chapter 141

26-8a-302, as last amended by Laws of Utah 2017, Chapter 326

26-8a-307, as enacted by Laws of Utah 1999, Chapter 141

78B-5-901, as enacted by Laws of Utah 2018, Chapter 109

78B-5-902, as enacted by Laws of Utah 2018, Chapter 109

ENACTS:

33 **78B-5-904**, Utah Code Annotated 1953

34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **26-8a-102** is amended to read:

37 **26-8a-102. Definitions.**

38 As used in this chapter:

39 (1) (a) "911 ambulance or paramedic services" means:

40 (i) either:

41 (A) 911 ambulance service;

42 (B) 911 paramedic service; or

43 (C) both 911 ambulance and paramedic service; and

44 (ii) a response to a 911 call received by a designated dispatch center that receives 911
45 or E911 calls.

46 (b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone
47 call received directly by an ambulance provider licensed under this chapter.

48 (2) "Ambulance" means a ground, air, or water vehicle that:

49 (a) transports patients and is used to provide emergency medical services; and

50 (b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

51 (3) "Ambulance provider" means an emergency medical service provider that:

52 (a) transports and provides emergency medical care to patients; and

53 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

54 (4) (a) "Behavioral emergency services" means delivering a behavioral health
55 intervention to a patient in an emergency context within a scope and in accordance with
56 guidelines established by the department.

57 (b) "Behavioral emergency services" does not include engaging in the:

58 (i) practice of mental health therapy as defined in Section 58-60-102;

59 (ii) practice of psychology as defined in Section 58-61-102;

60 (iii) practice of clinical social work as defined in Section 58-60-202;

61 (iv) practice of certified social work as defined in Section 58-60-202;

62 (v) practice of marriage and family therapy as defined in Section 58-60-302; or

63 (vi) practice of clinical mental health counseling as defined in Section 58-60-402; and

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

~~[(4)]~~ (5) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

~~[(5)]~~ (6) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

~~[(6)]~~ (7) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or his designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

~~[(7)]~~ (8) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, and other categories established by the committee.

~~[(8)]~~ (9) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

~~[(9)]~~ (10) "Emergency medical services" means:

(a) medical services[;];

(b) transportation services[; or both rendered to a patient.];

(c) behavioral emergency services; or

95 (d) any combination of the services described in Subsections (10)(a) through (c).

96 ~~[(10)]~~ (11) "Emergency medical service vehicle" means a land, air, or water vehicle
97 that is:

98 (a) maintained and used for the transportation of emergency medical personnel,
99 equipment, and supplies to the scene of a medical emergency; and

100 (b) required to be permitted under Section 26-8a-304.

101 ~~[(11)]~~ (12) "Governing body":

102 (a) is as defined in Section 11-42-102; and

103 (b) for purposes of a "special service district" under Section 11-42-102, means a
104 special service district that has been delegated the authority to select a provider under this
105 chapter by the special service district's legislative body or administrative control board.

106 ~~[(12)]~~ (13) "Interested party" means:

107 (a) a licensed or designated emergency medical services provider that provides
108 emergency medical services within or in an area that abuts an exclusive geographic service area
109 that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic
110 Providers;

111 (b) any municipality, county, or fire district that lies within or abuts a geographic
112 service area that is the subject of an application submitted pursuant to Part 4, Ambulance and
113 Paramedic Providers; or

114 (c) the department when acting in the interest of the public.

115 ~~[(13)]~~ (14) "Medical control" means a person who provides medical supervision to an
116 emergency medical service provider.

117 ~~[(14)]~~ (15) "Non-911 service" means transport of a patient that is not 911 transport
118 under Subsection (1).

119 ~~[(15)]~~ (16) "Nonemergency secured behavioral health transport" means an entity that:

120 (a) provides nonemergency secure transportation services for an individual who:

121 (i) is not required to be transported by an ambulance under Section 26-8a-305; and

122 (ii) requires behavioral health observation during transport between any of the
123 following facilities:

124 (A) a licensed acute care hospital;

125 (B) an emergency patient receiving facility;

- 126 (C) a licensed mental health facility; and
- 127 (D) the office of a licensed health care provider; and
- 128 (b) is required to be designated under Section 26-8a-303.
- 129 ~~[(16)]~~ (17) "Paramedic provider" means an entity that:
- 130 (a) employs emergency medical service personnel; and
- 131 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.
- 132 ~~[(17)]~~ (18) "Patient" means an individual who, as the result of illness ~~[or]~~, injury, or a
- 133 behavioral emergency condition, meets any of the criteria in Section 26-8a-305.
- 134 ~~[(18)]~~ (19) "Political subdivision" means:
- 135 (a) a city or town located in a county of the first or second class as defined in Section
- 136 17-50-501;
- 137 (b) a county of the first or second class;
- 138 (c) the following districts located in a county of the first or second class:
- 139 (i) a special service district created under Title 17D, Chapter 1, Special Service District
- 140 Act; or
- 141 (ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 142 Districts, for the purpose of providing fire protection, paramedic, and emergency services;
- 143 (d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);
- 144 (e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or
- 145 (f) a special service district for fire protection service under Subsection 17D-1-201(9).
- 146 ~~[(19)]~~ (20) "Trauma" means an injury requiring immediate medical or surgical
- 147 intervention.
- 148 ~~[(20)]~~ (21) "Trauma system" means a single, statewide system that:
- 149 (a) organizes and coordinates the delivery of trauma care within defined geographic
- 150 areas from the time of injury through transport and rehabilitative care; and
- 151 (b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in
- 152 delivering care for trauma patients, regardless of severity.
- 153 ~~[(21)]~~ (22) "Triage" means the sorting of patients in terms of disposition, destination,
- 154 or priority. For prehospital trauma victims, triage requires a determination of injury severity to
- 155 assess the appropriate level of care according to established patient care protocols.
- 156 ~~[(22)]~~ (23) "Triage, treatment, transportation, and transfer guidelines" means written

157 procedures that:

158 (a) direct the care of patients; and

159 (b) are adopted by the medical staff of an emergency patient receiving facility, trauma
160 center, or an emergency medical service provider.

161 Section 2. Section **26-8a-103** is amended to read:

162 **26-8a-103. State Emergency Medical Services Committee -- Membership --**
163 **Expenses.**

164 (1) The State Emergency Medical Services Committee created by Section 26-1-7 shall
165 be composed of the following [~~17~~] 19 members appointed by the governor, at least six of
166 whom shall reside in a county of the third, fourth, fifth, or sixth class:

167 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
168 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

169 (i) one surgeon who actively provides trauma care at a hospital;

170 (ii) one rural physician involved in emergency medical care;

171 (iii) two physicians who practice in the emergency department of a general acute
172 hospital; and

173 (iv) one pediatrician who practices in the emergency department or critical care unit of
174 a general acute hospital or a children's specialty hospital;

175 (b) two representatives from private ambulance providers;

176 (c) one representative from an ambulance provider that is neither privately owned nor
177 operated by a fire department;

178 (d) two chief officers from fire agencies operated by the following classes of licensed
179 or designated emergency medical services providers: municipality, county, and fire district,
180 provided that no class of medical services providers may have more than one representative
181 under this Subsection (1)(d);

182 (e) one director of a law enforcement agency that provides emergency medical
183 services;

184 (f) one hospital administrator;

185 (g) one emergency care nurse;

186 (h) one paramedic in active field practice;

187 (i) one emergency medical technician in active field practice;

(j) one licensed emergency medical dispatcher affiliated with an emergency medical dispatch center; ~~[and]~~

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

~~[(k)]~~ (m) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair. The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) The chair shall convene a minimum of four meetings per year. The chair may call special meetings. The chair shall call a meeting upon request of five or more members of the committee.

(c) Nine members of the committee constitute a quorum for the transaction of business and the action of a majority of the members present is the action of the committee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- 219 (a) Section 63A-3-106;
220 (b) Section 63A-3-107; and
221 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
222 63A-3-107.
- 223 (5) Administrative services for the committee shall be provided by the department.
224 Section 3. Section **26-8a-206** is amended to read:
225 **26-8a-206. Personnel stress management program.**
- 226 (1) The department shall develop and implement a statewide program to provide
227 support and counseling for personnel who have been exposed to one or more stressful incidents
228 in the course of providing emergency services.
- 229 (2) This program shall include:
230 (a) ongoing training for agencies providing emergency services and counseling
231 program volunteers; ~~and~~
232 (b) critical incident stress debriefing for personnel at no cost to the emergency
233 provider[-]; and
234 (c) advising the department on training requirements for licensure as a behavioral
235 emergency services technician.
- 236 Section 4. Section **26-8a-302** is amended to read:
237 **26-8a-302. Licensure of emergency medical service personnel.**
- 238 (1) To promote the availability of comprehensive emergency medical services
239 throughout the state, the committee shall establish:
240 (a) initial and ongoing licensure and training requirements for emergency medical
241 service personnel in the following categories:
242 (i) paramedic;
243 (ii) medical director;
244 (iii) emergency medical service instructor; ~~and~~
245 (iv) behavioral emergency services technician;
246 (v) advanced behavioral emergency services technician; and
247 ~~(iv)~~ (vi) other types of emergency medical personnel as the committee considers
248 necessary; and
249 (b) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel; and

(b) issue a license and license renewals to emergency medical service personnel.

(3) The department shall coordinate with the Department of Human Services established in Section 62A-1-102, and local mental health authorities described in Section 17-43-301, to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

~~[(3)]~~ (4) As provided in Section 26-8a-502, an individual issued a license under this section may only provide emergency medical services to the extent allowed by the license.

~~[(4)]~~ (5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

Section 5. Section **26-8a-307** is amended to read:

26-8a-307. Patient destination.

(1) If an individual being transported by a ground or air ambulance is in a critical or unstable medical condition, the ground or air ambulance shall transport the patient to the trauma center or closest emergency patient receiving facility appropriate to adequately treat the patient.

(2) If the patient's condition is not critical or unstable as determined by medical control, the ground or air ambulance may transport the patient to the:

(a) hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider chosen by the patient and approved by medical control as appropriate for the patient's condition and needs; or

(b) nearest hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider approved by medical control as appropriate for the patient's condition and needs if the patient expresses no preference.

Section 6. Section **78B-5-901** is amended to read:

**Part 9. Public Safety Peer Counseling and Behavioral Emergency
Services Technicians**

78B-5-901. Public safety peer counseling and behavioral emergency services technicians.

This part is known as "Public Safety Peer Counseling and Behavioral Emergency Services Technicians."

Section 7. Section **78B-5-902** is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

~~[(2)]~~ (3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

~~[(3)]~~ (4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

312 ~~[(4)]~~ (5) "Trained" means a person who has successfully completed a peer support
313 training program approved by the Peace Officer Standards and Training Division, the State Fire
314 Marshal's Office, or the Health Department, as applicable.

315 Section 8. Section **78B-5-904** is enacted to read:

316 **78B-5-904. Exclusions for certain communications.**

317 (1) In accordance with the Utah Rules of Evidence, a behavioral emergency services
318 technician may refuse to disclose communications made by an individual during the delivery of
319 behavioral emergency services as defined in Section 26-8a-102.

320 (2) Subsection (1) applies only to communications made during individual interactions
321 conducted by a behavioral emergency services technician who is:

322 (a) acting in the behavioral emergency services technician's capacity as an emergency
323 medical service provider; and

324 (b) functioning within the guidelines that are in effect for the behavioral emergency
325 services technician's emergency medical service agency or rescue unit.

326 (3) This section does not apply if:

327 (a) a behavioral emergency services technician was a witness or a party to the incident
328 that prompted the delivery of behavioral emergency services;

329 (b) information received by a behavioral emergency services technician is indicative of
330 actual or suspected child abuse, or actual or suspected child neglect;

331 (c) the individual receiving behavioral emergency services is a clear and immediate
332 danger to the individual's self or others; or

333 (d) communication to the behavioral emergency services technician evidence that the
334 individual who is receiving behavioral emergency services has committed a crime, plans to
335 commit a crime, or intends to conceal a crime.

336 Section 9. **Effective date.**

337 If approved by two-thirds of all the members elected to each house, this bill takes effect
338 upon approval by the governor, or the day following the constitutional time limit of Utah
339 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
340 the date of veto override.